

Minutes of the Board of Adjustment meeting held on Monday, January 11, 2010, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Wendell Coombs, Chair  
Joyce McStotts, Vice-Chair  
Rosi Haidenthaller  
Connie Howard  
Ray Christensen, Senior Planner  
Tim Tingey, Community & Economic Development Director  
G.L. Critchfield  
Citizens

Excused: Jonathan Russell

There was a staff review meeting held where the Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

### APPROVAL OF MINUTES

Wendell Coombs asked for additions or corrections to the minutes of December 14, 2009. Rosie Haidenthaller made a motion to approve the minutes as written. Connie Howard seconded the motion.

Voice vote was taken. Minutes approved 4-0.

Mr. Coombs explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and is based on state outlined criteria, and that financial issues are not considered a hardship.

### CONFLICT OF INTEREST

Ms. McStotts stated that her husband owned the property adjoining the Clearwire property, but he has no financial interest in it and does not create a conflict of interest for her.

### CASE #1396 – CLEARWIRE – 4640 South 900 East – Project #10-108

Noah Grodzin was the applicant present to represent this request. Ray Christensen reviewed the location and request for a variance for the required setback from a residential zone area for a communication antenna and pole. The tower is located on the back, northwest corner of the property located within the C-D-C zoning district. There is an existing storage building on the property, and an existing tower that is less than 2 feet in width and approximately 273 feet from the nearest residential zone. Mr. Christensen stated that the overall width of the proposed tower and antenna would exceed the 2 foot width limit within 330 feet of a residential zoning district, but would still be less than the maximum width of 15 feet allowed for monopoles. The proposed width is between four and five feet as measured in accordance with ordinance standards. Mr. Christensen stated that the subject property sits lower than the adjacent residential properties to the north and constitutes a special condition allowing for an extension of the tower without exceeding the apparent height of existing utility poles in this area. He said that the ordinance has a section that specifically deals with lattice towers and allows some flexibility for the Commission to approve lattice tower antennas that do not exceed the apparent height of existing utility poles. Based on review and analysis of the

application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff is recommending approval of the variance request.

Rosie Haidenthaller asked what the normal height of these towers. Mr. Christensen explained that if the width of a pole is less than 2 feet, it can be placed within 165 feet of a residential zone. If the width exceeds 2 feet, including the antenna, it must be placed 330 feet from a residential zone. He said that the height doesn't specifically relate to the issue, as the guidelines address the width of the pole and antenna.

Noah Grodzin stated that his variance request does not involve requesting additional height. He said that the code indicates that towers can be built to 80 feet or 90 feet, and the tower is currently 65 feet. He is proposing to increase the tower to 70 feet with flush mount additional antennas. Mr. Grodzin stated that in order to make the tower structurally sound, the diameter needs to be increased to support the additional antennas. He said that height is not an issue with this variance request. Mr. Grodzin stated that the code addresses lattice towers, which are very outdated, and that the specifications should apply to monopoles as they are the current standard. He said that he believes a hardship exists due to the code's reference to lattice towers being outdated. Mr. Grodzin stated that by allowing additions to this monopole, it will decrease the necessity of new towers being built in other locations.

Mr. Christensen clarified that the variance will be for a 57 foot setback from a residential zone. Ms. Haidenthaller stated that she believes that the code is too vague regarding this type of structure. Mr. Coombs agreed and recommended that staff review this section of the ordinance to clarify what types of technology should be considered. He stated that he agrees that the situation creates a hardship for the applicant.

Ms. Haidenthaller made a motion to approve the setback variance of 57 feet to allow a monopole greater than 2 feet in width to be located within 273 feet of a residential zoning district, and based upon the criteria outlined in the staff report. Seconded by Joyce McStotts.

Call vote recorded by Ray Christensen.

A Ms. McStotts

A Mr. Coombs

A Ms. Howard

A Ms. Haidenthaller

Motion passed 4-0.

Ms. McStotts made a motion to approve the Findings of Fact for Clearwire. Seconded by Ms. Howard.

Call vote recorded by Ray Christensen.

A Ms. McStotts

A Mr. Coombs

A Ms. Howard

A Ms. Haidenthaller

Motion passed 4-0.

CASE #1397 – FIRE ENGINEERING – 4717 South 500 West – Project #10-109

Bart Leeflang was present to represent this request. Ray Christensen reviewed the location and request for a landscaping variance to not install the 5 foot depth landscaping required at the property boundaries adjacent to the parking stalls for the property addressed 4717 South 500 West. The property is located within the M-G-C zone. He stated that this business recently acquired some additional property that is closer to Cherry Street in order to expand their business storage area. Mr. Christensen stated that due to the expansion, one of the required conditions is to bring the site up to code, which includes landscaping. The variance is being requested for an area on the north and south side of the property. There is parking along the west side of the building and also on the north and south sides for customers and employees, and some of the parking in the back is used for company trucks that are part of the business. Mr. Christensen stated that the plan approved by the Planning Commission in 1987 showed 21 parking stalls, and at that time the plan also showed landscaping along the south side of the property. He said that if cars were not parked in the drive aisle and a small section of landscaping removed on the north side of the driveway, then the applicant will meet the required 24 foot aisle width, with an 18 foot parking stall and 5 feet of landscaping installed along the south side of the property. The original plan did not show any parking on the north side of the building although there is parking in that area currently. Mr. Christensen stated that the Planning Commission had approved the project subject to the condition that landscaping requirements must be met. He said that there should still be adequate area for parking on the property even with the removal of the parking stalls for landscaping. Mr. Christensen stated that Community and Economic Development staff are recommending denial of this variance request.

Bart Leeflang stated that the original owners, who moved from the property approximately 10 years ago, didn't comply with the original plan. He said that he would like to keep the south side more open due to safety reasons and because of the number of big trucks that use the driveway. Mr. Leeflang stated that he doesn't know how many employees were on site in 1987, but he currently has 99 employees. He said that some of those employees park at construction sites because this is a contracting business, but his parking lot is often full. He stated that he has concerns about parking on the street and would like to maintain as many parking spaces as possible. He stated that there will be additional handicap spaces added, which will result in even fewer parking spots.

Rosi Haidenthaller asked what type of business is located on the north side of the property. Mr. Leeflang stated that the warehouse to the north has contained a number of businesses and at one time it was used for lumber storage. He said that the building was partially burned a few years ago. He stated that right now he thinks it is used for boat storage.

Rosi Haidenthaller asked why it is required to have 5 feet of green space between Mr. Leeflang's drive and the large metal storage building. She stated that she would understand if the property abutted a residential area or street, but it seems that in this area it is all commercial property. Tim Tingey stated that there are a few reasons for the

5 feet of green space. He said that in addition to being aesthetically pleasing it also serves as a buffer area between businesses.

Rosi Haidenthaller asked if the landscaping needs to extend past the gate. Mr. Christensen responded that the landscaping is required adjacent to the parking area and extends beyond the fence. Mr. Tingey stated that the ordinance requires 5 feet of landscaping in areas adjacent to parking. Ms. McStotts clarified that the landscaping will have to extend beyond the security fence.

Wendell Coombs stated that there is additional space towards Cherry Street that could be used for parking if needed. Ms. Haidenthaller stated that this might be difficult to grow anything in this particular area as it is shaded for most of the day due to the surrounding buildings. Mr. Coombs stated that the landscaping would provide a safety buffer along the fence so that someone doesn't pull into the fence and it would also be a good area to pile snow out of the driveway. He stated that as other properties make modifications they will also be required to conform to the ordinance. Mr. Coombs stated that Mr. Leeftang has done a nice job with the landscaping along the front of his building.

Jim Hendrickson, 266 Lindon Way, stated that he is Chairman of the Board for the Murray Shade Tree and Beautification Commission. He said that he has discussed this issue with the City Forester. He stated that 5 feet of space would fit some types of trees such as a columnar oak. Mr. Hendrickson stated that landscaping in this area will soften the impact of the blank wall as well as provide a safety buffer. He said that there are plant species that will grow in the limited amount of sunlight.

Ms. Haidenthaller asked how much of the area can be xeriscaped with the use of bark or gravel. Mr. Hendrickson stated that there are a number of grasses and plants that can survive with minimal water. Tim Tingey stated that the ordinance has requirements pertaining to ground cover and shrubbery in front setback areas. For interior setback areas such as the one being discussed, the ordinance states that the use of drought tolerant ground cover, shrub and tree materials, and/or grass is appropriate. Mr. Tingey stated that this offers some flexibility with using drought tolerant plants in this area.

Mr. Coombs stated that it is noted on the application that a hardship exists with incurring the expense of adding landscaping. He said that state law does not consider financial hardship as an appropriate reason to grant a variance. He stated that if the two parking stalls and a strip of landscaping is removed on the north side of the drive aisle, that landscaping can be added at the south property line without encroaching upon the access to the rear of the property.

Joyce McStotts asked if there is a time frame for completing the landscaping. Mr. Tingey replied that generally improvements to the site must be made before a Certificate of Occupancy is issued or a business license. He stated that there is a provision in the code that indicates circumstances like inclement weather or financial difficulty would allow for the City to enter into a security agreement with the applicant that would specify the time limit for installation of the landscaping.

Ms. Haidenthaller stated that she cannot identify a hardship in this situation. Ms. Howard stated that she is supportive of plenty of parking, but there is enough space for

parking in other areas. She said that she thinks the buffer is important for snow removal and snow falling off the adjacent building.

Ms. McStotts made a motion to deny the variance based on the criteria presented by staff. Seconded by Ms. Howard.

Call vote recorded by Ray Christensen.

<u>A</u>	Ms. McStotts
<u>A</u>	Mr. Coombs
<u>A</u>	Ms. Haidenthaller
<u>A</u>	Ms. Howard

Motion passed 4-0.

Ms. Haidenthaller made a motion to approve the Findings of Fact as outlined by staff. Seconded by Ms. Howard.

Call vote recorded by Ray Christensen.

<u>A</u>	Ms. McStotts
<u>A</u>	Mr. Coombs
<u>A</u>	Ms. Haidenthaller
<u>A</u>	Ms. Howard

Motion passed 4-0.

#### OTHER BUSINESS

Mr. Coombs announced that he would like to take nominations for Chair and Vice-Chair for 2010.

Ms. Howard made a motion to nominate Ms. McStotts as Chair. Seconded by Ms. Haidenthaller.

A voice vote was made. Motion passed 4-0.

Rosi Haidenthaller made a motion to nominate Jonathan Russell as Vice-Chair. Seconded by Ms. Howard.

A voice vote was made. Motion passed 4-0.

Meeting adjourned.

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Tim Tingey  
Director of Community & Economic Development